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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,289	04/08/2004	Jeffrey B. Feldstein	CSCO-8557	1113

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EXAMINER

THORNEWELL, KIMBERLY A

ART UNIT	PAPER NUMBER
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2128

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/821,289	Applicant(s) FELDSTEIN ET AL.	
	Examiner Kimberly Thornevell	Art Unit 2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-30 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-30 are pending in the instant application. All of claims 1-30 were rejected in the Office Action dated 7/18/2006. In the reply dated 10/23/2006, the Applicant amended claims 3, 13, 21, 23, and 24.

Response to Arguments

Oath/Declaration:

2. The Examiner thanks the Applicant for submitting new declarations. These declarations are in compliance with 37 CFR 1.67(a) and accordingly the objection has been withdrawn.

Claim Interpretation:

3. The Examiner respectfully notes the portion of the specification provided by the Applicant in order to define the term "personalities." Accordingly, the term has been interpreted in light of this portion of the specification.

Specification:

4. The removal of the trademark CiscoWorks has been noted. Accordingly, the objection to the specification has been withdrawn.

Claim Objections:

5. The Examiner thanks the Applicant for amending claims 3, 13, 21 and 23 as suggested. The objection to these claims is withdrawn. The Applicant further noted that claims 4, 14 and 24

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were objected to in error and do not require correction. Accordingly, the objection to these claims is also withdrawn.

Section 101 Rejections:

6. Regarding claim 1, the Applicant argued that the “generating a build file” is a tangible result, and there is no requirement that the generated build file is made for use (Remarks page 13 first paragraph). However, the Examiner respectfully traverses because as the Applicant cited from the MPEP, “the process claim must set forth a practical application” (Remarks page 12 last paragraph). As described in the Applicant’s disclosure, page 16 line 21-page 17 line 4, the generation of a build file is embodied as being performed within the confines of a computer. A process that results in building a file solely within a computer lacks a practical application because the Applicant has not set forth the real-world use of the invention within the claimed process. Consequently, the rejection of claims 1-7 and 9-10 is maintained.

7. Regarding claim 8, the Applicant argued that the Examiner is using a technological arts test to the claims in determining that claim 8 contains subject matter patentable under 35 USC 101. The Examiner respectfully disagrees with this argument and asserts that all claims are tested under Section 101 for a useful, concrete, and tangible result, rather than for the technological arts. Claim 8 recites making the build file of claim 1 “for use by a network management simulator to simulate a network.” It is not because claim 8 contains a use for the invention in the technological arts, but because claim 8 contains a practical application producing a real-world result, that claim 8 is considered patentable under 35 USC 101.

Section 102(b) Rejections:

8. Applicant's arguments have been fully considered but they are not persuasive.

The Applicant asserted that the Examiner made an improper rejection of the claims over the Tyan reference by relying on different embodiments described throughout the reference (Remarks page 16 paragraph 1). More specifically, the Applicant stated that the first embodiment is directed toward a new component called the autonomous component architecture (ACA), and the second embodiment to be directed toward a prior art design language (ADL). Furthermore, the Applicant stated that the two embodiments are mutually exclusive (Remarks page 16 last paragraph), and that an anticipation rejection of the claims would not have been proper.

The Examiner respectfully traverses the Applicant's arguments. The Examiner notes the section of the Tyan reference pointed out by the Applicant relating to ADL (Tyan page 14 section 2.2). While ADLs are discussed in the section as being a conventional prior art description language, the Examiner respectfully points out that the portion of the section relied on in the previous Office Action for the network discovery database of claim 1 "compris[ing] device information and connectivity information for a plurality of devices of the managed network" was **page 14 section 2.2 paragraph 2 lines 3-7**. This specific portion discusses the notion of "components."

Furthermore, the Examiner respectfully notes the section of the Tyan reference pointed out by the Applicant relating to ACA (Tyan page 15). While this section discusses the improvements of the ACA over conventional techniques, page 15 paragraph 1 lines 1-4 lists features found in both the current ACA and the prior art ADL, one of those being the

“components.” Therefore, the features of the ADL relied on by the Examiner are also present in the ACA. Accordingly, the Examiner respectfully submits that the ACA and ADL are not mutually exclusive. Moreover, the Examiner respectfully submits that page 14 section 2.2 paragraph 2 lines 3-7 of the Tyan reference was cited to show that the claimed features of the instant invention were anticipated not only by the ACA technology, but also by the prior art ADL technology.

Consequently, the Examiner asserts that the Tyan reference teaches each element of the claimed invention “arranged as in the claims,” and therefore maintains the rejection of claims 1-30 under 35 USC 102(b) over the reference.

Information Disclosure Statement

9. The information disclosure statement (IDS) submitted on 10/23/2006 was filed after the mailing date of the Office Action on 7/18/2006. The submission is in compliance with the provisions of 37 CFR 1.97. However, because the Manohar, “Solutions,” and OPNET listings lack dates, the submissions fail to meet the provisions of 37 CFR 1.98 and have not been considered. Furthermore, the web link to the Riley submission was not found to be active, and therefore this submission has not been considered.

Claim Rejections - 35 USC § 101

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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11. Claims 1-7 and 9-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 1 is directed to a method for generated a simulated network. According to the claim, once the method is performed, it results in generating a build file based on a network discovery database. The claim fails to produce a tangible result in that as described above, a practical application of the invention has not been set forth. Because the build file is generated within the confines of a computer, no real-world result is produced. Claims 2-7 and 9-10 are rejected as they depend from independent claim 1 and also fail to produce a real-world tangible result.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Tyan, “Design, Realization and Evaluation of a Component-Based Compositional Software Architecture for Network Simulation,” a doctoral dissertation submitted to the Graduate School at Ohio State University, 2002.

As per claims 1, 11 and 21,

Tyan discloses a method, computer-usable medium, and system for generating a simulated network, comprising:

Accessing a network discovery database for a managed network (*taught as the ability to access components while constructing network simulation scenarios, page 108 section 7.3 lines 1-4*), wherein the network discovery database comprises device information and connectivity information for a plurality of devices of the managed network (*page 14 section 2.2 paragraph 2 lines 3-7, discussion on "components," also described in ACAs on page 15 lines 1-4*); and

Automatically generating a build file describing the simulated network based on the network discovery database (*page 122 figure 7.2, shown as how the NodeBuilder behaves, also page 121 paragraph 2*).

As per claims 2, 12 and 22,

Tyan discloses the automatic generation of the build file comprising:

Extracting device attributes for the devices of the managed network and writing the device attributes to the build file (*page 146 lines 2-5*); and

Determining personalities for the devices based on the device attributes and writing the personalities to the build file (*page 55 first paragraph*).

As per claims 3, 13 and 23,

Tyan discloses the device attributes comprising: a device type (*page 15, taught as basic and composite components*), network connectivity information (*page 14 section 2.2 paragraph 2 lines 3-7*), a device configuration (*page 33 section 3.5 lines 1-4*) and a device operating system name and version (*page 149 last paragraph, taught as all devices running in Linux 2.4.8*).

As per claims 4, 14 and 24,

Tyan discloses the determining personalities for the devices comprising:

Determining whether a personality exists for a device based on the device type and the operating system of the device (**page 53 under “Identities Query”**);

If the personality exists, selecting the personality (**page 52, taught as “Identity Retrieval”**); and

If the personality does not exist, creating a personality for the device (**page 53, taught as “Identity Addition”**).

As per claims 5, 15 and 25,

Tyan discloses the creating the personality for the device comprising selecting a personality from existing personalities based on the device type and the device operating system name and version (**page 53 under “Identities Query”**).

As per claims 6, 16 and 26,

Tyan discloses the determining personalities for the devices comprising attaching the device attributes for the device to the personality (**page 64 first paragraph**).

As per claims 7, 17 and 27,

Tyan discloses the network connectivity information comprising a neighbor discovery protocol table for the device (**page 52 table 5.4**).

As per claims 8, 18 and 28,

Tyan discloses the build file being for use by a network management simulator to simulate a network (**page 42 second full paragraph**).

As per claims 9, 19 and 29,

Tyan discloses **the device attributes comprising event information (page 34 last paragraph)**.

As per claims 10, 20 and 30,

Tyan discloses the generation of the build file further comprising configuring the event information for the devices (**page 59, under "Unicast/Multicast Route Events"**).

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Thornewell whose telephone number is (571)272-6543. The examiner can normally be reached on 9am-5:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on (571)272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kimberly A. Thornewell
Patent Examiner
Art Unit 2128

KAT


KAMINI SHAH
SUPERVISORY PATENT EXAMINER